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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,280	08/23/2001	Satoshi Ohta	2019.005	1196

7590 02/18/2004

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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3677

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/938,280

Applicant(s)

OHTA ET AL.

Examiner

Carlos Lugo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- )

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office Action is in response to applicant's RCE filed on December 16, 2003.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 and 3-20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,048,002 to Ohta et al (Ohta) in view of US Pat No 6,176,528 to Taga, US Pat No 4,796,932 to Tame and further in view of US Pat No 5,411,302 to Shimada.

Regarding claims 1,3-16 and 20, Ohta discloses a door closer (103) comprising a latch (108) engaging an engagement member (4), an urging member (111) that urges the latch towards the initial position, a ratchet (110 and 120), an actuation mechanism (114,116,117,118 and 122), a motor (M) and a controller to control the motor (Figures 1,13A-21 and Col. 10 Line 2 to Col. 21 Line 10).

However, Ohta fails to disclose that the latch mechanism includes a courtesy switch, that the courtesy switch controls the action of the ratchet through the actuation mechanism and that the controller includes a timer.

Taga teaches that is known in the art to have a courtesy switch to detect the door is in a predetermined position separate from the release position in the door opening direction.

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Tame also teaches that is known in the art to have a courtesy switch (114 and 118) that controls the action of the ratchet (56) through an actuation mechanism (Col. 4 Lines 7-33).

Shimada teaches that is known in the art to have a timer (106) in a controller (100) of a door closer device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a courtesy switch, as taught by Taga and Tame, into a latching device as described by Ohta, in order to prevent inadvertent closing of the door.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a timer, as taught by Shimada, into a latching device as described by Ohta, in order to set time to the latching operations.

As to claims 17-19, Ohta discloses the use of a positive temperature coefficient thermistor (147).

#### ***Response to Arguments***

4. Applicant's arguments filed on December 16, 2003 have been fully considered but they are not persuasive.

As to applicant's arguments that the previous rejection fails to show the new limitation of the control switch controlling the action of the ratchet through an actuation mechanism (Page 12 Line 4), the new rejection of Ohta, as modified by Taga, Shimada and Tame, discloses the invention as claimed (see rejection above).

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo  
Examiner  
Art Unit 3677

February 10, 2004.

**WILLIAM L. MILLER  
PRIMARY EXAMINER**

